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JUL 11 1995

Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Part 95 of the)
Commission's Rules to Allow)
Interactive Video and Data)
Service Licensees to Provide)
Mobile Service to Subscribers)
TO: The Commission)

WT Docket No. 95-47

RM-8476

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REPLY COMMENTS OF COMMERCIAL REALTY ST. PETE, INC.

Commercial Realty St. Pete, Inc. ("CRSPI"), by its attorney, hereby respectfully replies to the Comments of EON Corporation ("EON"), filed in this proceeding on June 23, 1995. In reply thereto, it is alleged:

1. In its Comments, EON alleges that "several licensees are building or are on the verge of building their systems". Frankly, CRSPI questions whether this statement is accurate. So far as CRSPI has been able to determine, EON is not yet able to supply working technology to implement an IVDS system. Neither is any other company at this point in time.

2. On Sunday, July 2, 1995, an article appeared in the Washington Post, entitled, "Interactive TV: The Leap Looks a Long Way Off". A copy of that article is attached and marked Exhibit A.

3. Among other things, the author of the article, Mike Mills, describes EON "as an increasingly troubled company that

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continues to overpromise its ability to deliver equipment to license holders". Moreover, Mr. Mills quotes Andrew Sernovitz, president of the Interactive Television Association, as proclaiming that, "A third of the auction winners are people who had no idea what was being given out". Some auction winners apparently thought they were being awarded a license for a TV broadcast station.

4. As the Commission is aware, CRSPI has been actively pursuing efforts to find a way to utilize the spectrum sold at the IVDS auction. It has become increasingly clear, however, that if the spectrum is to be viable the Commission must remove many of the "strings" which were attached to that spectrum. That means that the Commission should remove the prohibition against mobile operation.

5. In its Comments, EON suggests that the Commission should make it clear that it does not intend to prohibit indirect communications between a response transmitter unit (RTU) and the public switch network (PSN), or any commercial mobile radio service (CMRS). For once, EON is correct. If the IVDS spectrum is to become viable, it is very important that subscribers be permitted to connect, at least indirectly, to the PSN and CMRS and to connect indirectly from one RTU to another.

6. EON suggests that the Commission should make it clear that licensees are in compliance with the rules, so long as each IVDS subscriber who receives a mobile service is capable of receiving fixed services. Once again, EON is correct. Mobile services appear to be the most promising use for the 200 MHz

spectrum, sold at the IVDS auction. CRSPI does not see any reasons why there should be any fixed service limitations on that spectrum, but making it clear that any IVDS subscriber who is capable of receiving fixed service also qualifies to receive mobile service would, as a practical matter, open the IVDS spectrum fully to mobile service. That is a development which is absolutely essential if the IVDS spectrum is to be fully utilized.

7. Finally, EON supports the Commission's proposal to limit mobile RTU's to a 5 sec./hr. duty cycle. CRSPI does not support such a limitation. In the first place, the purpose of the limitation, supposedly, is to prevent interference with TV Channel 13. There are, however, other ways of protecting Channel 13. In many areas, Channel 13 is not in use. In those areas, the duty cycle limitation is not needed and should not be imposed.

8. In areas where Channel 13 is operational, the possibility exists to protect TV Channel 13 by co-locating central stations with the Channel 13 transmitting antenna. This is the method of protection frequently used to prevent interference from non-commercial educational FM broadcast stations to Channel 6.

9. Furthermore, if mobile units cause interference to Channel 13, the duty cycle limitation is not a real solution to that problem. TV viewers will complain, even if a one second packet or series of packets interfere with their reception of the TV station. The real solution is simply to require that transmitting equipment in the IVDS be manufactured with sufficient spectral purity to avoid out of band emissions. Given the state

of modern manufacturing technology, that should be no real problem.

10. In conclusion, the spectrum sold at the IVDS auction is spectrum that is looking for a use. The best prospects for finding a viable use of that spectrum lies in the workings of the free market, not in government imposed restrictions. CRSPI understands that many bidders at the IVDS auction actually bid their entire life savings, without realizing that technology had not yet been developed to implement a workable IVDS system. If a workable IVDS system is to be implemented, either on a fixed service basis or for mobile service, the Commission needs to remove as many restrictions as possible on the spectrum that was sold. Ideally, the Commission should remove the duty cycle limit; the fixed service requirement; the build out requirements; the effective radiated power limitation; and even the requirement that the spectrum be used solely for interactive services. Once all of these restrictions are lifted, the free market will find a way for the spectrum to be fully utilized.

Respectfully submitted,

July 11, 1995

COMMERCIAL REALTY ST. PETE, INC.

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By:


Lauren A. Colby
Its Attorney

EXHIBIT A

Hideaway on Taxes

The tax rules governing vacation rentals are complicated, and property owners should look carefully at the various alternatives to ensure they get any tax benefits they are entitled to but don't get in trouble with the Internal Revenue Service.

In fact, someone in search of an example of how the tax laws can be a simple activity complex can hardly find a better one than renting out a vacation home. Ernst & Young Tax Guide, a popular how-to manual, takes nearly five pages to explain the issues involved, depending on how much it is rented and by whom, a vacation property can be treated for tax purposes as a purely personal residence, a rental property or a hybrid of the two. Also, but less commonly, it can be treated as an investment property or an actively engaged in for profit.

At one extreme, the owner can rent it in up to two weeks' rental and pay no taxes at all on the income. At the other, the owner

See CRENSHAW, H2, Col. 1

Few employees take advantage family leave t.



The disparity between Posford's pay and his unit's performance symbolizes the management problem facing Salomon Brothers chief executive Deryck C. Maughan and Robert E. Denham, chairman of its publicly traded parent, Salomon Inc. The firm's masters of the universe make huge amounts of money—even when the firm does poorly.

Salomon is not alone in this disconnect be-

least \$30 million, the magazine said.

The uncertain struggle to reform Wall Street's compensation system has fallen to Maughan and Denham, along with investor Warren E. Buffett, who is chairman of the executive committee of the board of directors. They tried to reform the compensation system for 1995 by tying pay more closely to the firm's overall profits. Buffett, through his holding company Berk-

placed with a talent drain, Salomon's board of directors decided last month to abandon the new pay plan. "The idea was sound," said a member of the board. "But Wall Street will not let you implement it. Salomon remains a firm where the top people have had a 'heads I win, tails you lose' pay arrangement. In the good times, they make a lot of money and shareholders make

See SALOMON, H4, Col. 1

Interactive TV: The Leap Looks a Long Way Off

High and Dry Investors Await Viable Technology

By Mike Mills

Washington Post Staff Writer

A year ago, the ballroom of the Omni Shoreham Hotel resembled the main tent at a state fair. As an auctioneer delivered his rapid-fire patter, energetic assistants raced to the podium with bids from some of the hundreds of participants.

When the dust settled, the Federal Communications Commission had raised \$120 million in the auction of 594 licenses to provide interactive video and data services, known as "TVDS."

Those license winners were betting they would get rich from IVDS, which was touted as a hot new technology that would let people talk back to their TV sets. Using wireless devices, consumers could send messages that would make it possible to bank and shop at home, answer questions to quiz shows, take tests, and—of course—order a pizza.

But so far, the only back talk has come from disgruntled license winners. Over the past year, 23 winning bidders—including the top three—have defaulted on their bid payments to the FCC. The 113 remaining winners are urging the agency to relax its

rigid rules for payment and construction of the system.

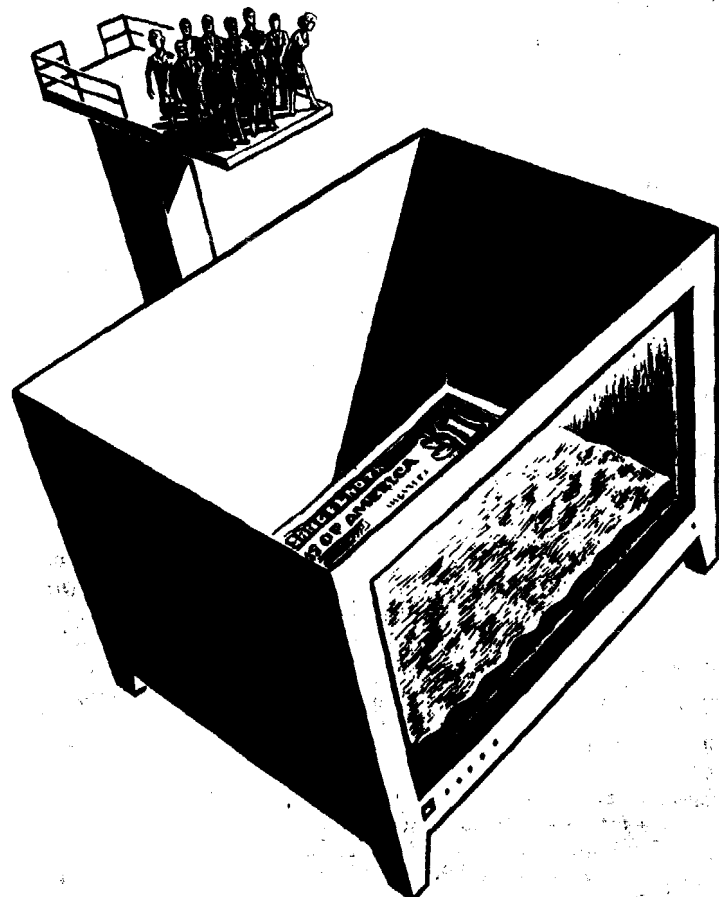
Add IVDS to the list of hot "new media" technologies, such as CD-ROM publishing and video movies-on-demand, that attracted huge interest from investors several years ago, but so far have failed to live up to their hype.

The problem, in part, is that the technology isn't ripe yet. While the equipment to provide some small degree of interactivity with TVs is slowly becoming available, it's expensive and unproved. Meanwhile, license holders are learning what huge cable television and phone companies already know: There is no evidence that people want to interact with their television sets.

Based on their experiences so far, many license winners are wondering whether they've bought a lucrative stake in the information revolution, as they'd hoped, or dead air.

"No one has really figured out how we're really going to make money with this yet," said George Dick of Louisville, who along with his wife and other investors bought an IVDS license serving Huntington, W. Va. "Nothing has come clear yet on how we can do this."

See INTERACT, H4, Col. 1



BY CHRISTOPHE VORLET FOR THE WASHINGTON POST

Dazzled by Visions of a New Age, Interact

INTERACT, From H1

Fingers are pointing in all directions.

License holders have grown tired of waiting for equipment from Eon Corp., the Reston-based company that developed the original IVDS technology and urged the FCC to reserve frequencies for the service. The license holders describe Eon today as an increasingly troubled company that continues to overpromise its ability to deliver equipment to license holders. At a seminar of IVDS license winners last week, Eon, which recently laid off 45 of its 113 employees, told licensees that interactive equipment would come soon and that it could offer something in the meantime—a new mobile messaging service that would work on the same frequencies.

Some winners also blame the FCC for overselling the promise of IVDS.

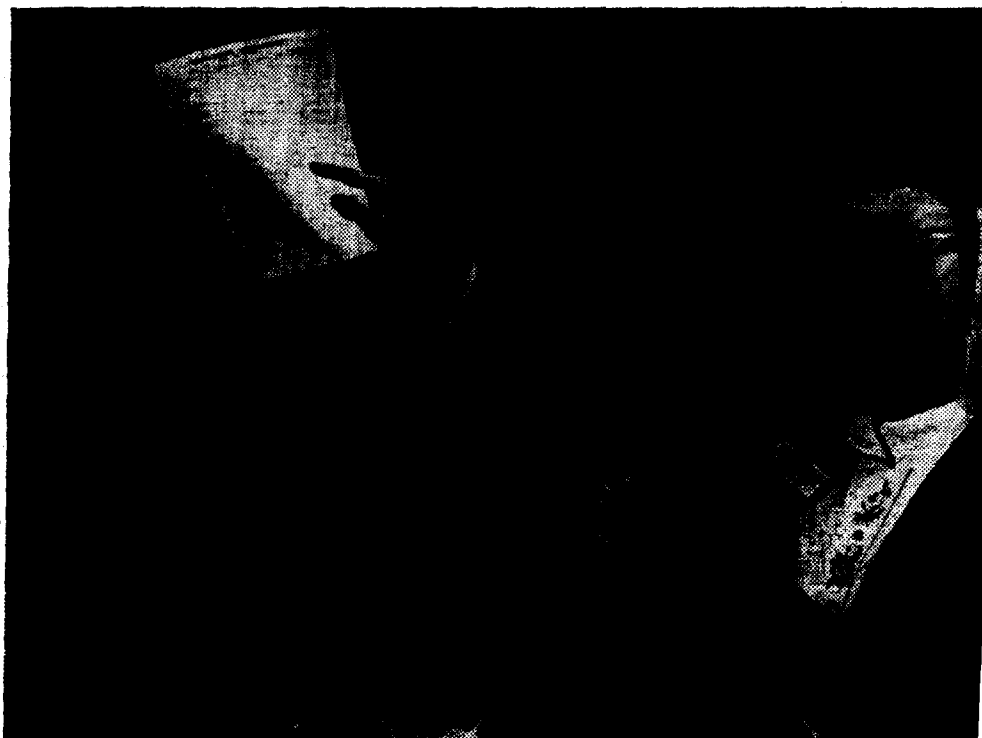
An October 1993 FCC "fact sheet" described IVDS as a "convenient and low-cost system" that could "combine the functions of computers, TV sets and compact disc players. Subscribers will be able to choose camera angles during a sporting event, pay bills, shop-until-they drop at malls, choose endings to TV shows, check college catalogues, play video games, choose movies on demand, or order pizza with or without toppings."

In fact, the small slice of bandwidth allocated for IVDS—just one half of one megahertz, a twelfth of what a TV channel consumes—is not nearly enough to deliver movies on demand or alternate camera angles. The most it can do is provide a small "return path" to broadcasters or cable operators, allowing customers only to respond to on-screen questions.

"The day after the IVDS auction we must have gotten 50 calls from people who thought they had bought broadcast TV licenses," said Andrew Sernovitz, president of the Interactive Television Association. "A third of the auction winners are people who had no idea what was being given out."

The IVDS auctions are a sore spot for the FCC, which otherwise is basking in the success of having raised nearly \$8 billion in similar auctions for wireless phone licenses this past year. One staffer calls IVDS "the auctions from hell."

The FCC used the IVDS auctions to fulfill a congressional mandate to include small businesses, women and minorities in the bidding for new licenses. It worked, at least on paper: Seventy-one percent of the winners qualified as women or minority bidders.



Amy Smith was one of hundreds of participants who bid at the FCC's auction of licenses for in

But in steering licenses to newcomers who lack organization, capital and expertise, the FCC may unwittingly be contributing to the failure of IVDS. "By letting only the small guys in, you have a lot of people who don't have a lot of money and are having trouble making this business work," said Dick of Louisiana. "It may doom this business."

Of course, nobody forced the license holders to place bids. Many were hoping for a repeat of the 1980s cellular bonanza, when people reaped millions of dollars by reselling licenses to industry giants. Dazzled by the promises of the multimedia age, they showed up with unrealistic expectations and did very little homework.

"A lot of people bought the spectrum on a total speculation basis," said Eon chief executive George Keyworth, who was a science adviser to President Ronald Reagan. "They saw that people had made a lot of money in the cellular days and thought this would be just as salable a commodity."

FCC Chairman Reed E. Hundt said his agency erred by asking bidders to put up only

\$2,500 to bid in the auctions—which may have encouraged speculators. "That was the only mistake we made," he said. "We're going to cure that in the future."

But Hundt defended the IVDS auctions in general.

"We kept telling people caveat emptor," he said. "It's not the FCC's responsibility to guarantee anybody's success. We didn't hold an auction to nudge somebody down the information superhighway. The responsibility is entirely on them. It was always clear to essentially everybody that this was a very niche service with a future, but an uncertain future."

The IVDS auctions also may have been lightning rod for speculators and scam artists. The Federal Trade Commission is investigating whether some marketeers sold stakes in IVDS licenses to investors but kept the money for themselves.

According to the FCC, the top winning bidder, James Hartley, is a real estate broker from Florida who defaulted on making down payments for his bids (he cites concerns about the availability of IVDS). He is appealing an FCC

ive TV Investors Still Wait



BY TOM ALLEN—THE WASHINGTON POST

active video and data services a year ago.

proposed fine of \$390,000 and other possible sanctions. In interviews, Hartley and Chris Pedersen, another top winner who defaulted, said they still want to pay for their licenses; FCC officials say that's not an option.

Eon began peddling the idea for IVDS in the 1980s, in its former incarnation as a company called TV Answer. The company's founders hired influential Washingtonians such as Keyworth and former FCC chairman Mark Fowler to stalk the halls of the FCC, urging commissioners to reserve a portion of the airwaves for their plan to give viewers a way to talk back to their television sets.

They also wooed potential license holders with a promotional video:

"It's the promise of television fulfilled," said a voice-over in the video. "You will forever change the way Americans entertain, educate and buy."

Back then, Eon promised to be a full-service partner with license holders, offering them financial aid, technology, a nationwide network, alliances with industry giants such as Hewlett-Packard Co. and Hughes Satellite Systems, and

a "growing list" of service providers ranging from J.C. Penney Co. to Domino's Pizza Inc.

But today those corporate partners are out of the picture, the equipment is still not available and Keyworth said Eon has narrowed its mission.

The company now wants to be simply a provider of software that allows license holders to provide mobile paging and, in time, interactive TV services, Keyworth said.

"We had our own market test [of interactive TV] in Fairfax County," Keyworth said. "We discovered that people do not naturally convert what they currently do on television today to an interactive mode. We're in a never-never land of no experience and no market feedback."

Even if the public does begin to clamor for interactivity, broadcasters, cable operators and phone companies are only a few years away from providing the same services, and more.

As a result, only Eon and Riverside, Calif.-based Radio Telecom & Technology Inc. are working on equipment to provide interactive television with IVDS signals. Three other companies also have FCC approval to supply equipment for IVDS, but two are urging license holders to forget interactive television and instead focus on less expensive wireless data services, such as monitoring utility meters, vending machines and automated teller machines.

A support group for license winners, called NAIL (for National Association of IVDS Licensees Inc.) also is steering licensees away from interactive TV and toward wireless data applications.

The group, led by Albert and Mary Beth Schneider of Cleveland, wants the FCC to give licensees more flexibility in using their frequencies for data services. They also want the agency to waive a January deadline that requires winners to build their systems to reach at least 10 percent of their markets, or face losing their licenses.

Louis Martinez, president of Radio Telecom & Technology, estimates that most IVDS license winners paid five times too much for their licenses. The average price per potential subscriber was \$1.99, compared with 52 cents paid by giant phone companies in similar recent auctions for much more lucrative next-generation cellular communications licenses.

"I believe they overpaid," Martinez said. "But over time, we definitely believe there is value in what they have. But that will not be noticeable for another three to five years. And these people want value tomorrow."

1995 and 1996. ~~Prices will remain unsettled until~~
~~tions in October. But the mer~~
~~are uncertain.~~

Dow Jones industrial average

Standard & Poor's 500-stock index

CERTIFICATE OF SERVICE

I, Traci Maust, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class U.S. mail, postage prepaid, this 11th day of July, 1995, to the offices of the following:

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